

Remarks

Claims 1, 2, 7 – 19 and 49 – 58 are pending. Claims 49 – 58 are cancelled. Claim 1 is amended to correct the typographical error noted by the Examiner. Claims 2 and 7 – 19 remain as previously presented.

I. Terminal Disclaimer/Double patenting rejection

Reinstatement of the previously filed terminal disclaimer is requested. This should obviate the new double-patenting rejection. If a new terminal disclaimer is required for some reason, Applicants stand ready to submit it.

II. Rejections under Section 102

Claims 1, 2, 7-10, and 16-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Carson (U.S. 5,931,862). This rejection is respectfully traversed.

The claims as previously amended clearly require a system comprising a pacing pulse generator and first and second leads. The Carson reference does not show such a system. The Carson reference shows a system comprising a pacing pulse generator and a single lead. It is described in Carson as a single lead. This usage is consistent with common usage in the art and the usage in both the present application and Carson. Anyone of skill in the art would understand the system described Carson and illustrated in Figure 1 to be a single lead system. Even the Official Action acknowledges that the system in Carson comprises “a medical electrical lead”. Calling the single lead system of Cason a two lead system does not make it so.

Withdrawal of the rejection of claims 1, 2, 7-10, and 16-18 under 35 U.S.C. 102(b) as being anticipated by Carson is respectfully requested.

Claims 1, 2, 7-10, 11 and 16 stand rejected under 35 U.S.C. 102(e) as being anticipated by Krall (WO 02/089909 A1). The attorney for Applicants assumes that the rejection was intended to be based upon Section 102(b). This rejection is also respectfully traversed.

The claims as previously amended clearly require a system comprising a pacing pulse generator and first and second leads. The Krall reference does not show such a system. The Krall reference shows a system comprising a pacing pulse generator and a single lead. It is described in Krall as a single lead. This usage is consistent with common usage in the art and the usage in both the present application and Krall. Anyone of skill in the art would understand the system described Krall and illustrated in Figure 1 to be a single lead system. Even the Official Action acknowledges that the system in Krall comprises "a medical electrical lead". Calling the single lead system of Krall a two lead system does not make it so.

Withdrawal of the rejection of claims 1, 2, 7-10, 11 and 16 under 35 U.S.C. 102(b) as being anticipated by Krall is respectfully requested.

Claims 1, 2 and 16-19 stand rejected under 35 U.S.C. 102(e) anticipated by Belden (U.S. 6,847,845). This rejection is also respectfully traversed.

Belden does disclose a system with two leads and a pacing pulse generator, as generally required by the claims. However, the required porous layer over the second electrode is not disclosed in Belden. The language referred to in the Office Action describes the insulation that forms the outer covering of the lead body. This covering is not described as either porous or extending over the electrode. One of skill in the art would understand that this

covering is intended to be non-porous and would not extend over the electrode because if it did, the electrode would be non-functional.

Withdrawal of the rejection of claims 1, 2 and 16-19 under 35 U.S.C. 102(e) as anticipated by Belden (U.S. 6,847,845) is respectfully requested.

III. Rejections under Section 103

All rejections made under Section 103 are based upon the defective rejections under section 102 as discussed above and are believed improper for the reasons discussed above. The additional references cited in the rejections under Section 103 do not make up for the deficiencies in the rejections under Section 102 and are not cited as doing so.

Withdrawal of all rejections under Section 103 is respectfully requested.

Conclusion

Applicants respectfully assert that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

The remarks presented herein are believed fully responsive to the Office Action and are believed sufficient to overcome the rejections presented in the Office Action. However, there may be other arguments to be made as to why the pending claims are patentable. Applicant does not concede any such arguments by having not presented them herein. Finally, please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 13-2546.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

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Date

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